

RESOLUTION NO. A-_____

1 WHEREAS, Technical Management, Inc. has submitted an application for
2 a permit to use the public right-of-way between 421 S. 9th Street and 830 L Street for
3 the installation of a 3" conduit for fiber optic cable to provide telecommunication and
4 network data connections between the two properties; and

5 WHEREAS, said applicant has submitted a letter of application and a site
6 plan which are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and
7 made a part of this resolution by reference, to use the public right-of-way as above
8 described; and

9 WHEREAS, said applicant has complied with all of the provisions of
10 Chapter 14.53 of the Lincoln Municipal Code pertaining to such use.

11 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
12 Lincoln, Nebraska:

13 That the aforesaid application of Technical Management, Inc., hereinafter
14 referred to as Permittee, to use the public right-of-way between 421 S. 9th Street and
15 830 L Street, crossing underneath Capitol Parkway as shown on Exhibit "B", for the
16 purpose of installing fiber optic cable and copper wire inside the conduit be granted as
17 a privilege only by virtue of and subject to strict compliance with the site plan, the letter
18 of application, and the following terms and conditions, to wit:

19 1. That the permission herein granted is subject to all the terms and
20 conditions of Chapter 14.53 of the Lincoln Municipal Code including those provisions
21 relating to the posting of a continuing bond in the amount of \$5,000 and the filing of a

1 certificate of insurance evidencing a commercial or comprehensive general liability
2 policy, or an acceptable substitute policy form, with a minimum combined single limit of
3 \$500,000 aggregate for any one occurrence and naming the City as additional insured.

4 2. The work shall be constructed in accordance with plans and
5 specifications approved by the Department of Public Works and Utilities. The cable,
6 where it is underground, shall be laid to a minimum depth of 3½ feet from the top of the
7 cable to the surface of the ground. All land surfaces and all pavement shall be restored
8 to their original condition after the work is completed on each segment of the project.
9 "As built" drawings shall be furnished to the City by the Permittee to show the precise
10 locations, depths, and nature of all materials installed in accordance with the permit.
11 The City shall have the right at any time when, in its judgment, it becomes necessary or
12 advisable to require a change of location of said cable as a matter of safety, or on
13 account of change of grade, resurfacing, repair, reconstruction of any street, alley,
14 sidewalk, or other public ground, or the construction of any structure thereon, or for any
15 other reason, all of which shall be done at the cost and expense of the Permittee in a
16 good and workmanlike manner.

17 3. The Permittee shall pay to the City an annual rental for the use and
18 occupancy of the space beneath said public street occupied by such use which rental
19 shall be 5 percent of the annual gross revenues derived from the usage of such
20 permitted cable. Gross revenues shall be defined in the same manner as provided in
21 Section 5.16.040.

22 Said rental payments shall be made to the City Treasurer and shall
23 be due and payable on the 1st day of October of each year; provided however, the

1 amount of the initial payment required hereunder shall be pro-rated from the date when
2 the permit is issued to the 1st day of October of the next year and payments shall be
3 due and payable on October 1st thereafter. Rent shall become delinquent on the 1st
4 day of December of each year and such delinquent rent shall bear interest at the rate of
5 one percent per month until paid and if such rent is not paid for six months or more
6 after such delinquent date, a penalty of five percent shall be added thereto in addition
7 to said interest.

8 4. The use of the public way herein granted and the terms and
9 conditions of this resolution shall be binding and obligatory upon the above-named
10 Permittee, its successors and assigns.

11 5. Any additions, changes, modifications, amendments of the uses
12 permitted herein shall require a new permit or other authorization.

13 6. That within 30 days from the adoption of this resolution, and before
14 commencing any construction under the provisions hereof, the above-named Permittee
15 shall file an unqualified written acceptance of all the terms and conditions of this
16 resolution with the City Clerk. Failure to do so will be considered a rejection hereof and
17 all privileges and authorities hereunder granted shall thereupon ipso facto terminate.

18 The Permittee shall, within thirty days after written demand, reimburse the
19 City for all direct and indirect costs and expenses, as provided in Section 14.53.070, in
20 connection with the issuance and review of this permit.

21 The Permittee shall sign and return the City's letter of acceptance to the
22 City Clerk prior to commencing any work in the public right-of-way.

Introduced by:

Approved as to Form and Legality:

City Attorney

Approved this ____ day of _____, 2003:

Mayor